

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

APPLIED BALLISTICS INC.,

Plaintiff,

v.

SHELTERED WINGS, INC,

Defendant.

Civil Action No. 24-552-RGA

MEMORANDUM ORDER

I consider the partial motion to dismiss. (D.I. 62). It is fully briefed. (D.I. 63, 73, 74). The motion seeks dismissal of the first two counts of the amended complaint. (D.I. 26). For present purposes, the two counts are essentially the same. One is federal, the other is Indiana law.

The two counts themselves are boilerplate other than the incorporation by reference of all the preceding paragraphs. The parties focus on those preceding paragraphs. Essentially, Plaintiff identifies one trade secret, the “Version 46 communications protocols.” (D.I. 26, ¶ 43).¹ It says Defendant had access to Version 46 pursuant to a license agreement. (*Id.*, ¶ 44). Plaintiff identifies additional confidential information, but without stating that it is a trade secret: “detailed schematics and explanations of its approach to the application of Bluetooth Low Energy in small arms fire control.” (*Id.*, ¶ 46). It says it disclosed these schematics to Defendant in September 2019, and days later, Defendant “filed a patent application incorporating schematics based on the schematics disclosed by [Plaintiff].” (*Id.*, ¶ 47).

¹ Plaintiff says it identifies other trade secrets. (D.I. 73 at 5). Indeed, it does, but those trade secrets do not seem to be connected to any allegations of misappropriation.

I do not think Plaintiff provides a sufficient factual basis for the conclusion that Defendant has misappropriated any of its identified trade secrets. The one thing for which there is a factual assertion of misappropriation—the schematics that provided a basis for schematics that Defendant used in a patent application—is not one of the things that Plaintiff’s briefing (or the amended complaint) states is a trade secret. (*See* D.I. 73 at 5).

Thus, I will GRANT Defendant’s motion. (D.I. 62). It is possible that Plaintiff can file a second amended complaint that cures the deficiencies in the first amended complaint. Therefore, Plaintiff is given leave to file a second amended complaint within two weeks of this Memorandum Order.

IT IS SO ORDERED this th26 day of February 2025.


United States District Judge